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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,576	10/18/2001	Kazuhiko Kono	2001-0912A	4725

513 7590 05/10/2004

WENDEROTH, LIND & PONACK, L.L.P.  
2033 K STREET N. W.  
SUITE 800  
WASHINGTON, DC 20006-1021

EXAMINER

AGUSTIN, PETER VINCENT

ART UNIT	PAPER NUMBER
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2652

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/890,576

Applicant(s)

KONO, KAZUHIKO

Examiner

Peter Vincent M Agustin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9,11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) 3-6,9,11 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of species a, readable on claims 1, 2, 7 & 8 in Paper No. 10 is acknowledged.
2. Claims 3-6, 9, 11 & 12 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.

### *Priority*

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Specification*

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
5. The disclosure is objected to because of the following informalities:
  - a. On page 3, lines 24-26, it is stated that a waveform E2 is slightly smaller than a waveform E1, which is contrary to what is shown on figure 10.
  - b. On page 18, lines 1-4, it is stated that the first data plane S1 is the further plane from the light source, and the second data plane S2 is the closer plane from the light source, which is contrary to what is shown on figure 10.

Appropriate correction is required.

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Drawings***

7. Figures 7-11 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 2, 7 & 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Yokota (US 6,104,019) in view of Ito et al. (hereafter Ito) (JP 61292227 A).

In regard to claim 1, Yokota discloses an optical disk device (figure 1) comprising: an optical system (2) for condensing and emitting a light beam (L) to an optical disk (1) having plural data planes at a data-recordable intensity; a focus error signal detector (3 & 6) for detecting a focus error signal corresponding to respective relative displacements between a focus of the light beam and the plural data planes based on a reflected light from the plural data planes; a focus controller (9) for matching the focus of the light beam with the plural data planes depending on the focus error signal; and a monitor (see abstract) for monitoring whether or not

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the focus of the light beam is located on one of the plural data planes which is to be provided with data recorded on the one of the plural data planes. Furthermore in regard to claim 2, Yokota discloses a focus monitor (see abstract) for monitoring the focus error signal, and wherein the focus monitor is operable to judge that the focus of the light beam is not located on the one of the plural data planes if detecting a change of the focus error signal corresponding to an increase of a relative displacement between the focus of the light beam and the one of the plural data planes. However, Yokota does not disclose a light intensity controller for controlling an intensity of the light beam, wherein the light intensity controller reduces the intensity of the light beam to a level at which data cannot be recorded in the optical disk if the monitor judges that the focus of the light beam is not located on the one of the plural data planes.

Ito discloses a light intensity controller (see purpose) for controlling an intensity of a light beam, wherein the light intensity controller reduces the intensity of the light beam to a level at which data cannot be recorded in an optical disk if an out-of-focus is detected (see constitution). It would have been obvious to one of ordinary skill in the art at the time of invention by the applicant to have used the light intensity controller of Ito to reduce the intensity of the light beam to a level at which data cannot be recorded in the optical disk if the monitor of Yokota judges that the focus of the light beam is not located on the desired data plane, the motivation being to prevent a signal from being recorded on an undesired track or layer.

In regard to claim 7, Yokota discloses a method for controlling an optical disk drive (figure 1) which includes: an optical system (2) for condensing and emitting a light beam (L) to an optical disk (1) having plural data planes at a data-recordable intensity; a focus error signal detector (3 & 6) for detecting a focus error signal corresponding to respective relative

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displacements between a focus of the light beam and the plural data planes; a focus controller (9) for matching the focus of the light beam with the plural data planes, said method comprising: judging whether or not the focus of the light beam is located on one of the plural data planes which is to be provided with data recorded on the one of the plural data planes (see abstract). Furthermore in regard to claim 8, Yokota discloses monitoring the focus error signal (see abstract), wherein said judging comprises judging that the focus of the light beam is not located on the one of the plural data planes if detecting a change of the focus error signal corresponding to an increase of a relative displacement between the focus of the light beam and the one of the plural data planes. However, Yokota does not disclose a light intensity controller for controlling an intensity of the light beam, and reducing the intensity of the light beam to a level at which data cannot be recorded in the optical disk if judging that the focus of the light beam is not located on the one of the plural data planes.

Ito discloses a light intensity controller (see purpose) for controlling an intensity of a light beam, wherein the light intensity controller reduces the intensity of the light beam to a level at which data cannot be recorded in an optical disk if an out-of-focus is detected (see constitution). It would have been obvious to one of ordinary skill in the art at the time of invention by the applicant to have used the light intensity controller of Ito to reduce the intensity of the light beam to a level at which data cannot be recorded in the optical disk if the judging step of Yokota judges that the focus of the light beam is not located on the desired data plane, the motivation being to prevent a signal from being recorded on an undesired track or layer.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miura et al. (US 4,669,072) discloses a control apparatus for an optical recorder with a light beam control signal generator that reduces the energy of the light beam when tracking failure is detected.

Maeda et al. (US 4,554,652) discloses an optical information processor wherein the intensity modulation of a light beam is stopped when a tracking signal departs from a predetermined range.

Tateishi et al. (US 5,903,530) discloses an apparatus for reproducing record information of multiple-layered optical disc.

Kanda (EP 0326343 A2) discloses a control circuit for reducing the power of a light beam to a level not enough for recording in response to a detection signal from an abnormality detecting circuit.

Aizawa (JP 62192938 A) discloses a means for decreasing the intensity of a light beam when tracking control is disabled in order to avoid destruction of information.

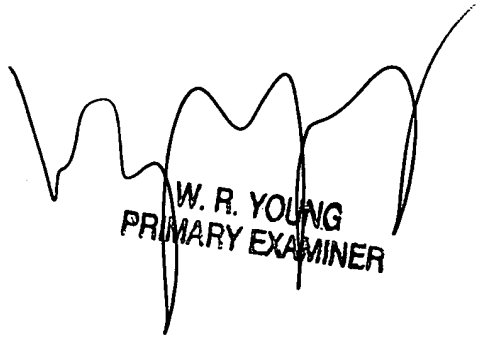
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Vincent Agustin whose telephone number is (703) 305-8980. The examiner can normally be reached on Monday thru Friday 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PVA  
04/28/2004



W. R. YOUNG  
PRIMARY EXAMINER